

6 August 1969

MEMORANDUM FOR THE RECORD

SUBJECT: Conversation with [] General Counsel, NSA,
re Ervin Subcommittee and S. 782

1. Talked to [] General Counsel, NSA, and in general terms filled him in concerning publication of the DCI's testimony before the Ervin Subcommittee, last night's meeting with Miss Marcia MacNaughton and Mr. Larry Baskir, and this morning's conversation with Miss MacNaughton re response to the Chairman's letter of 1 August concerning Agency and NSA personality tests.

2. I advised [] that in talking to Miss MacNaughton this morning only the question of Agency policy since 1966 was covered. We had not touched on the question of the effect of the pending legislation on Agency use of personality tests. I also advised that I told Miss MacNaughton that I was not in the position to comment for NSA. It was noted that Miss MacNaughton gave the impression she had talked to [] since my meeting with her last night or that she was sufficiently up-to-date concerning NSA's policies to know that there had been no change in NSA policy since 1966. Advised [] we are in the process of preparing a response to Senator Ervin outlining in general terms a possible application or effect of the legislation on our testing program and reiterating that there has been no change in our policy since 1966 and suggested that it might be well if NSA were now to respond directly in their own name to the Subcommittee. [] accepted the suggestion without question.

3. Advised [] that Miss MacNaughton had relayed to me off the record that it might be helpful for the Subcommittee if NSA were in a position to show "good faith" changes in their policy or program since 1966. On this point [] feels that he can demonstrate ample change in the program. The conversation closed on a note that he will touch base with us when the final draft is prepared and that he would appreciate a call when we hear from Miss MacNaughton about the outcome of today's hearing.

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[]
Assistant Legislative Counsel

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MEMORANDUM FOR THE RECORD

**SUBJECT: Conversation with Senator Birch Bayh (D., Ind.)
re S. 782 (Ervin Bill)**

1. Met with Senator Birch Bayh (D., Ind.) and Larry Conrad, Chief Counsel of his Subcommittee, re this morning's session of the Ervin Subcommittee on S. 782 (Ervin Bill).

2. Senator Bayh said:

a. He is puzzled by Ervin's apparent change of heart -- Ervin is obviously seeking a compromise to avoid a fight in Subcommittee but trying to salvage all he can.

b. In today's Subcommittee meeting all members attended (despite preoccupation with the Safeguard debate) except Kennedy, Byrd and Thurmond.

c. Ervin spoke in terms "reasonable compromise" re an exemption for CIA and NSA; Bayh and McClellan initially pushed for complete exemption; Hruska and Fong advocated partial exemption along the general lines of the Agency "fall back" proposal; Thurmond, although not present, expressed by proxy his position that he personally favored complete exemption but in deference to the Chairman would settle for a limited exemption.

d. After considerable discussion of Ervin's proposal that personnel complaints must be settled by administrative procedure within the Agency within 120 days, it was agreed in principle to keep the 120 days limitation but provide that this period could be extended with the approval of the Board on Employee's Rights where circumstances justified.

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e. It was agreed in principle that the Director should be authorized to designate by category of employee, rather than in each individual case, employees or applicants which could be required to submit to the polygraph, psychological testing, or inquiries into personal relationships, religious beliefs, attitudes on sex matters or financial status.

f. It was agreed in principle that outside counsel could be called in by aggrieved employees provided they obtained Agency security clearance in advance.

g. Possibly the most troublesome provision in the Agency compromise proposal was that specifically reaffirming that the Director's authority set forth in Section 102 (c) of the National Security Act of 1947. It was agreed in principle to modify this provision by specifying that this authority could be exercised only in cases affecting the national security. (In a separate conversation with [redacted] Marcia MacNaughton, of Senator Ervin's staff, indicated that any reference to 102 (c) in our proposed amendment would be unacceptable.)

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h. Senator Bayh and Mr. Conrad will consult us further as soon as they obtain a copy of the amended version of the bill now being drafted by the Subcommittee staff on the basis of today's Subcommittee meeting.

3. I told Senator Bayh we were deeply grateful for his very helpful cooperation in the matter and felt that most of the above-noted points could be worked out, but we would have to stand fast in preserving the Director's termination authority under Section 102 (c) of the National Security Act of 1947.

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[redacted]
JOHN M. MAURY
Legislative Counsel

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